

***Superseded 5/13/2014***

**53A-1a-512 Employees of charter schools.**

- (1) A charter school shall select its own employees.
- (2) The school's governing body shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this part.
- (3) The following statutes governing public employees and officers do not apply to a charter school:
  - (a) Chapter 8a, Public Education Human Resource Management Act; and
  - (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.
- (4)
  - (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:
    - (i) are licensed; or
    - (ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.
  - (b) The school's governing body shall disclose the qualifications of its teachers to the parents of its students.
- (5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.
- (6)
  - (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.
  - (b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.
- (7) Except as provided under Subsection (8), an employee of a charter school shall be a member of a retirement system or plan under Title 49, Utah State Retirement and Insurance Benefit Act.
- (8)
  - (a) At the time of application for a charter school, whether the chartering entity is the State Charter School Board, a local school board, or a board of trustees of a higher education institution, a proposed charter school may make an election of nonparticipation as an employer for retirement programs under:
    - (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
    - (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
    - (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
  - (b) A charter school that was approved prior to July 1, 2004, may make an election of nonparticipation prior to December 31, 2004.
  - (c) An election provided under this Subsection (8):
    - (i) shall be made at the time specified under Subsection (8)(a) or (b);
    - (ii) shall be documented by a resolution adopted by the governing body of the charter school;
    - (iii) is in effect unless the charter school makes an irrevocable retraction of the election of nonparticipation in accordance with Subsection (9); and
    - (iv) applies to the charter school as the employer and to all employees of the charter school.
  - (d) The governing body of a charter school may offer employee benefit plans for its employees:
    - (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
    - (ii) under any other program.
- (9)

- (a) A charter school that made an election of nonparticipation as an employer for the following retirement programs may subsequently make an irrevocable retraction of the election of nonparticipation:
  - (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
  - (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or
  - (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
- (b) A retraction provided under this Subsection (9):
  - (i) shall be documented by a resolution adopted by the governing body of the charter school;
  - (ii) is a one-time election;
  - (iii) is irrevocable; and
  - (iv) applies to the charter school as the employer and to all employees of the charter school.
- (10) The governing body of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging that the employee:
  - (a) has received:
    - (i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or
    - (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and
  - (b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.